

**REMARKS / ARGUMENTS**

**Rejections based on 35 U.S.C. § 102(e)**

The last Office Action rejected **Claims 45-47, 52-58 and 63-67** under 35 U.S.C. 102(e) as being anticipated by Daoud et al. (hereinafter Daoud)(US 2002/0087694 A1).

**Regarding Claim 45:**

The Applicant has amended claim 45 to include at least one limitation not disclosed by Daoud, specifically:

a service index block table, ... the service index table to provide a first of a plurality of balancing policies in response to receiving the service index;

Daoud discloses a load balancer that receives a service index (Daoud's equivalent term is a "service tag") corresponding to a service request and selects a resource index from a group block (Daoud's equivalent term is a "service index") as a basis for selecting a resource from a group of resources. [0047]. The load balancer may be one in a hierarchy of load balancers. [0048]. The load balancer may select the group block from a plurality of group blocks. [0045]. The selection of group block may be based on a group ID for transaction. [0045]. Each of the plurality of group blocks may be based on a different set of monitored server parameters. [0045]. Daoud discloses that the load balancer can use different policies ("conventional load balancing algorithms"). [0047]. However, Daoud does not disclose how the policy its load balancer uses is selected. In Daoud, the policy seems integrated into the group block selected. *See e.g.* [0047].

For at least this reason, the Applicant believes the rejection of claim 45 has been overcome.

**Regarding Claims 46-47, 52-55:**

The Applicant has canceled claims 46 and 55.

Claims 47 and 52-54 are dependent on amended claim 45 and the Applicant believes that the rejection of these claims is overcome for at least the same reason as given for claim 45.

Furthermore, Daoud does not disclose the additional limitation of claim 52:

a content analysis engine configured to receive at least a portion of a data packet and generate a service index based on at least one of domain name and URL pattern matching.

Daoud discloses that a data packet with a URL is received. Figure 2, [0025]. However, Daoud does not disclose a service index (the equivalent in Daoud is “service tag”) that is determined by the packet URL. Daoud describes many factors that the level of service indicated by the service tag may be based on, but the URL of a received data packet is not one of them. [0027], [0032]-[0035].

Similarly, Daoud does not disclose the additional limitation of claim 53:

a lookup table coupled to receive at least a portion of a data packet, the lookup table to select the service index based on at least one of a destination IP, a destination port and a protocol corresponding to the data packet.

Daoud describes many factors that the level of service indicated by the service tag may be based on, but the destination IP, a destination port and a protocol corresponding to the data packet are not included in them. [0027], [0032]-[0035].

Regarding Claim 56:

The Applicant has amended claim 56 to include at least one limitation not disclosed by Daoud, specifically:

selecting a first load balancing policy from among a plurality of load balancing policies based on the first load balancing policy index;

As argued above regarding claim 45, Daoud does not disclose how the policy its load balancer uses is selected.

For at least this reason, the Applicant believes the rejection of claim 56 has been overcome.

Regarding Claims 57, 58, 63-67:

The Applicant has canceled claims 57 and 67.

Claims 58, 63-66 are dependent on amended claim 56 and the Applicant believes that the rejection of these claims is overcome for at least the same reason as given for claim 45.

Rejections based on 35 U.S.C. § 103(a)

The last Office Action rejected Claims 48-51 and 59-62 under 35 U.S.C. 103(a) as being unpatentable over Daoud et al. (hereinafter Daoud)(US 200210087694 A1) in view of Romero et al . (hereinafter Romero) (US 2002101 291 27 A1 ).

Regarding Claims 48-49:

The Applicant has canceled claims 48 and 49.

Regarding Claim 50:

Claim 50 is dependent on claim 45. As argued above regarding claim 45, at least one limitation of claim 45 is not disclosed by Daoud specifically:

a service index block table, ... the service index table to provide a first of a plurality of balancing policies in response to receiving the service index;

Romero does not cure the defect. Romero discloses a load balancer, but not explicitly mention load balancing policies. Romero's load balancer makes routing decisions, so inherently it has load balancing policies. Romero disclosed that its load balancer may base its routing decision on any number of factors, such as configuration or system metrics, so it may have various policies. [0017]. However, Romero does not disclose or suggest how the load balancer's policies are determined. Thus claims 45 and 50 are patentable over Daoud in view of Romero.

Regarding Claim 51:

Claim 51 is dependent on claim 50 and the Applicant believes it is patentable over Daoud in view of Romero for at least the same reason as given for claim 50.

Regarding Claim 59:

Claim 59 is dependent on claim 56. As argued above regarding claim 56, at least one limitation of claim 5 is not disclosed by Daoud specifically:

selecting a first load balancing policy from among a plurality of load balancing policies based on the first load balancing policy index;

Romero does not cure the defect. As argued above regarding claim 48, Romero does not disclose or suggest how the load balancing policy is determined. Thus claims 56 and 59 are patentable over Daoud in view of Romero.

Regarding Claim 60-62:


Claims 60-62 are dependent on claim 59 and the Applicant believes they are patentable over Daoud in view of Romero for at least the same reason as given for claim 59.

**CONCLUSION**

Applicant respectfully submits the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Phil Hunt at (503) 439-6073. Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
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